

**MINUTES**  
**Ferndale City Council Meeting**  
**Held Monday, October 18, 2004**  
**City Hall Annex Building – 5694 Second Avenue**  
**7:00 p.m.**

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**PRESENT BY ROLL CALL:**

**Councilmember Steve Oliver**  
**Councilmember Mike Reilly**  
**Councilmember Susan Cole**  
**Councilmember Ron Wilson**

**Councilmember Mel Hansen**  
**Councilmember Marianne Elgart**  
**Councilmember Carol Brumet**

**STAFF:**

**City Clerk Linda Knutson**  
**Planning Director Tom Black**  
**City Treasurer Mark Peterson**

**Public Works Director Bob Cecile**  
**Police Chief Dale Baker**  
**City Attorney Dick Langabeer**

**Mayor Jerry Landcastle Presiding**

**2005 BUDGET WORK SESSION – 5:00 p.m. – 6:40 p.m.**

The Council met in a budget work session from 5:00 to 6:00p.m. to review anticipated departmental expenditures for 2005.

**CALL TO ORDER**

**Mayor Landcastle called the meeting to order at 7:00 p.m.**

**CONSENT AGENDA**

***The following consent agenda was moved for approval by Councilmember Wilson and seconded by Councilmember Brumet:***

1. Approval of Minutes of 10/04/2004 Council Meeting
2. Approval of Claims Run of October 18, 2004; Checks #42162 - #42283; Total Claims Run: \$274,620.51

***Motion passed unanimously.***

**PUBLIC COMMENT**

No one spoke.

**PUBLIC HEARING – CRITICAL AREAS ORDINANCE #1328**

Mayor Landcastle reviewed the rules of protocol governing public hearings, including appearance of fairness. He introduced Planning Director Tom Black to present the staff report regarding the evolution of the proposed Critical Areas Ordinance.

**Staff Report**

Director Black reviewed that the state's Growth Management Act requires jurisdictions to identify, designate, and protect "critical areas". These include fish and wildlife conservation areas, wetlands, frequently flooded areas, critical aquifer recharge areas, and geologically hazardous areas.

Shortly after the city adopted its Comprehensive Plan in 1996, the city adopted a Critical Areas Ordinance (CAO) to address this state mandate. The state has also mandated that the city review and update its Comp Plan and development regulations (which include the CAO) periodically. This is necessary because of the on-going changes to state law, especially in the environmental area.

The city began a review of its CAO over a year ago, and has made slow but steady progress in re-writing a new ordinance that will be consistent with current state and federal law. It has also spent considerable resources in comprehensively mapping critical areas. The latest draft of the ordinance is attached. A full size Critical Areas Map will be presented at the meeting.

The Planning Commission has held several workshops on this draft ordinance, in addition to one public hearing that was held on August 11, 2004. The Commission is forwarding the ordinance to the Council for consideration with a recommendation of approval.

Director Black noted two handouts. The first was a letter from the Department of Ecology which commented on the proposed ordinance. The second was a letter from the Department of Community Trade and Economic Development. These were received in answer to the City's submittal for state agency review and comment.

Director Black stated that the Council has several options for action. The Council could approve the ordinance, or decide to hold a public hearing or additional workshops prior to making a decision.

### **Discussion**

Councilmember Reilly wondered if the City needed to incorporate comments from the two state agencies into the proposed ordinance. Director Black said that the DOE is not the granting authority, as they were with the Shoreline Master Program, and that they could only offer suggestions as a reviewing agency. The City would only need to incorporate what they feel is "reasonable and appropriate".

Jim Wiggins, a biologist who authored the ordinance, felt that the new provisions were more than adequate to address environmental needs of the City's critical areas.

Several Councilmembers had questions regarding a "vesting" or "grandfathering" process, once the ordinance is approved. Director Black explained that "vesting" is looked at on a case-by-case basis by the Court system.

Councilmember Elgart noted that the ordinance itself has a very comprehensive review process for fairness and balance.

### **Public Hearing Opened**

**Rhonda Oxford** was concerned about the detention ponds located upstream from her property on Malloy Avenue. She further stated that the setbacks in the proposed ordinance are too extreme, and that the Council needed to address vesting in the ordinance.

**Lori Apana** was also concerned about the setback requirements being too extreme. She asked that the Council consider reducing them to fifty or seventy five feet.

**Ken Rogley** stated that the setbacks, as proposed, would deny him the use of much of his property, and urged the Council to leave the setbacks as currently written.

**Mike Young** agreed with the previous speakers that the setbacks were too restrictive.

**Barry Oxford** also agreed with previous speakers regarding the setbacks, and added that he felt the notification process was inadequate in letting people know and comment about this process. He felt that a city-wide mailing would be more appropriate.

### **Public Hearing Closed**

### **Discussion**

Councilmember Brumet asked why setbacks are proposed at double what they are currently. Planning Director Black responded that the GMA requires that the City use “best available science”, as well as fair and reasonable methodology when establishing buffers and setbacks.

Councilmember Elgart felt that the city must be cautious, even while protecting its citizens, to ward off potential legal challenges to the ordinance.

City Attorney Langabeer pointed out that the ordinance does contain many safeguards that protect the rights of property owners. He felt that this ordinance was well-drafted and fair.

Councilmembers Brumet and Hansen felt that vesting should be addressed in the ordinance. Attorney Langabeer responded that vesting is not applicable to this ordinance, and grandfathering is contrary to all development standards.

Councilmember Oliver felt that the ordinance was fair and balanced, and retained a good level of local control.

Councilmember Elgart agreed.

### **Motion**

***It was moved by Councilmember Elgart and seconded by Councilmember Elgart to approve the Critical Areas Ordinance #1328.***

### **Discussion**

Councilmember Hansen stated that he wouldn't support the motion, as he felt that not enough people were aware of the new standards. Councilmember Reilly agreed.

Councilmember Cole felt that the process of developing the ordinance had been long and well thought out, and that people had plenty of time for input. She also felt that there was flexibility built into the ordinance that would address most concerns.

Councilmember Wilson stated that it was a long and complex ordinance, but that he trusted the opinions of the Planning Commission and City Attorney, and would support it.

### **Vote**

***Motion passed five-to-two, with Councilmembers Hansen and Reilly voting no.***

### **PUBLIC HEARING – CEDARS RV APPEAL OF ROAD FRONTAGE IMPROVEMENTS**

Mayor Landcastle stated that the rules governing public hearings were still in effect for the Cedar's RV Appeal issue. He then introduced Planning Director Black to present the staff report.

### **Staff Report**

Director Black reported that earlier this year, Kevin Demers for Cedars RV Park submitted a Conditional Use Permit Application to allow an expansion of the park from the existing 120 spaces to 210 spaces, or a 75% expansion. A public hearing was held by the Planning Commission on August 11, 2004. Following the public hearing the Commission approved the CUP subject to certain conditions, which included a requirement to construct road frontage improvements along Portal Way. Road frontage improvements are required of commercial land developers by Section 12.12.040 of the Ferndale Municipal Code.

Subsequent to the approval by the Planning Commission, and in accordance with procedures of the Ferndale Municipal Code, the applicant submitted a Notice of Appeal. In the Notice of Appeal the appellant states his objection to the requirement for road frontage improvements, and his reasons for believing the decision is unfair. He asks that the City Council grant an exemption or waive the

requirement. The Appeal was scheduled for a public hearing before the City Council, and notice of the public hearing was distributed in accordance with code provisions.

Based on the record developed in this case, and the requirements of city code, staff believes that the Planning Commission acted reasonably and appropriately in its decision-making relative to the Cedars RV Conditional Use Permit. Conversely, staff believes that the Appellant failed to provide compelling arguments to support his request for relief from the requirement to construct road frontage improvements.

### **Public Hearing Opened**

**Kevin Demers**, owner of Cedar's RV Park, stated that he bought the park on Portal Way over eight years ago and has turned it into a well-run and attractive destination for RV travelers. He believes that the City's regulations regarding frontage improvements are applied inconsistently to the businesses fronting Portal Way, and questioned this inconsistency. He further stated that according to his calculations, it would cost approximately \$125,000 to improve the one-thousand feet of frontage of his business on Portal Way.

### **Public Hearing Closed**

#### **Discussion**

Councilmember Elgart responded that she had check into frontage requirements for other business that had opened or remodeled near the RV Park, and that all had followed code requirements, and City processes. The restaurant referred to does not have its access off Portal Way but a side street, she added.

Councilmember Wilson agreed, saying that no exceptions had been made and that he would uphold the Planning Commission's decision.

Councilmember Reilly also felt that the improvements should be accomplished, but that he wants commercial enterprises to succeed. He hoped that the City would look at creating a fund or establish time payments in cases such as this.

Councilmember Hansen would also encourage pay options, but did not feel that the citizens of Ferndale should have to pay for improvements that should be done by businesses.

#### **Motion**

***It was moved by Councilmember Brumet and seconded by Councilmember Wilson to uphold the Planning Commission's decision to require frontage improvements by Cedars' RV Park. Motion passed six-to-one, with Councilmember Reilly voting no.***

#### **RESOLUTION #04-10-18 – GRAD NIGHT 2005**

Mayor Landcastle read a resolution supporting the fund-raising efforts of the Ferndale High School Grad Night 2005 Committee.

***It was moved by Councilmember Wilson and seconded by Councilmember Brumet to approve Resolution #04-10-18 in support of Grad Night 2005. Motion passed unanimously.***

#### **ADDITION TO PERSONNEL POLICIES**

Mayor Landcastle introduced an addition the City's Personnel Policies and Procedures. This had initially been presented to the Council in the form of an agreement with the City's non-represented employees. The purpose of the agreement was to address severance issues under certain "at-will" termination situations. The City Attorney suggested that the proposed severance language simply be added to the City's Personnel Policies and Procedures, rather than creating individual employee agreements. The proposed severance is on a sliding grid and payment is dependant upon years of service.

Two Councilmembers asked if severance would be made if a person was terminated for misconduct. Mayor Landcastle responded that severance would only be granted under restrictive, non-misconduct circumstances, which are spelled out in the proposed addition.

***It was moved by Councilmember Cole and seconded by Councilmember Wilson to approve the addition to the Personnel Policies concerning non-represented employees severance pay under certain conditions. Motion passed unanimously.***

**COUNCIL REPORTS**

**Councilmember Elgart** reported on meetings she had attended recently concerning preparation for transportation alternatives for the upcoming 2010 Olympic Games in Canada. She had also attended a mental health summit. Councilmember Elgart is also involved in raising interest and participation in the Pumpkin People Contest sponsored by the Chamber of Commerce, for which she is the Council Liaison.

**Councilmember Hansen** related that he had just returned from visiting the largest hydro-electric project in the world, located in mainland China.

**SET COMMITTEE MEETINGS**

The following Committee meetings were set for Wednesday, October 20th:

Streets and Utilities	7:30 a.m.
Recreation and Finance	8:30 a.m.
Planning and Judicial	11:00 a.m.

**APPOINTMENT AND CONFIRMATION TO COMMITTEE**

City Clerk Knutson related that the Law and Justice Committee had asked that Police Chief Dale Baker be re-appointed and Council confirmed to that Committee.

***It was moved by Councilmember Hansen and seconded by Councilmember Wilson to appoint Chief Baker to the Law and Justice Committee. Motion passed unanimously.***

**ADJOURNMENT**

There being no further scheduled City business, the Council meeting was adjourned at 9:05 p.m.

**ATTEST:**

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Jerry Landcastle, Mayor

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Linda Knutson, City Clerk

**ATTACHMENT A:**

**MINUTES  
Streets and Utilities Committee  
Held Wednesday, October 06, 2004  
City Hall Conference Room  
7:30 a.m.**

**COMMITTEE:** Councilmembers Reilly and Oliver  
**ADMINISTRATION:** Jerry Landcastle, Bob Cecile, Greg Young, Sylvia Stiles

**SUMMER SEWER CALCULATION**

Mayor Landcastle presented a resident's concern that there appeared to be a discrepancy in the calculations of his June 2004 and August 2004 water and sewer bill. Mayor Landcastle illustrated the calculation of a regular billing period compared to a billing during the summer which reflected the sewer charges based on the winter water usage.

There was some discussion on possible billing cycle changes. Bob Cecile will check water intake for the past several months to see if and when volume changes occur.

### **BUS STAGING SITUATION**

Mayor Landcastle informed the Committee that staff will be meeting with Ferndale School District early next week regarding the bus staging situation at Ferndale High School. Of particular concern is Shuksan Street, and the proposed gate which would "dead-end" the street.

### **ACCESS TO HIGHWATER DOWNS PLAT**

Bob Cecile discussed with the committee the access to High Water Downs, which is a new plat off of Church Road, adjacent to Lakeridge Estates. Mr. Cecile informed the committee that there is enough frontage on Church Rd. to allow an access from Church into this development. Councilmember Reilly expressed concerns about the number of entrances to arterial streets such as Church Road and Vista Drive. There could be access to this plat from the Anderson property which abuts Highwater Downs to the north. The Anderson property will also have Thornton Road access.

### **PUBLIC UTILITY DISTRICT NO. 1**

Bob Cecile presented the committee with a letter from Tom Anderson, General Manager of PUD # 1. The letter indicates that PUD can no longer subsidize the treatment needs of the City. EPA regulations beginning January 2005 will require increasing the monthly chemical surcharge and will be a substantial increase in cost. PUD proposes dedicating an existing basin belonging to PUD for City use only. This would function as a settling pond for turbidity which would lessen the cost of chemicals.

Councilmember Reilly would like to see cost estimates and intake figures. He also asked Mr. Cecile to check the cost of building our own basin. Mayor Landcastle stated that the contract with PUD would restrict the basin for City. Councilmember Reilly asked that staff inquire into getting water rights to draw from the river as a back up. Mr. Cecile suggested the City look into tightening up the contract with PUD.

Councilmember Oliver felt the committee needed to consider the long term needs of the City in this area. He would like to discuss and consider the feasibility of a City System. Mayor Landcastle expressed concern regarding staff time and costs involved in considering this issue. Councilmember Reilly is concerned the City will lose control over costs. Councilmember Oliver felt the City should consider all options and asked if it was possible for the City to build a pond by the end of the year. Mr. Cecile responded that the City could not. Councilmember Reilly asked about the possibility of additional filters. He said he had been told that more filters would be less expensive. Mr. Cecile felt that a modified basin would be less expensive than filters. Mr. Cecile will check the costs. Mayor Landcastle restated that PUD needs an answer from the City.

The costs for both options will be forwarded to full council without a recommendation.

Councilmember Oliver added that it is imperative that whatever option is selected, it should not be a short-term solution just to save funds.

### **PERMANENT PLACEMENT OF STOP SIGNS**

Councilmember Reilly inquired as to permanent placement of stop signs at Washington Street and Second Avenue. He recommends the signs be placed permanently as a four-way stop which he feels it is safer.

Councilmember Oliver stated that the alignment of Washington Street as it crosses over Second Avenue is slightly askew.

**ATTACHMENT B:**

**MINUTES  
Streets and Utilities Committee  
Held Wednesday October 13, 2004  
City Hall Conference Room  
7:30 a.m.**

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**COMMITTEE:** Councilmembers Mike Reilly, and Steve Oliver  
**CITY ADMINISTRATION:** Jerry Landcastle, and Linda Knutson

**PROPOSED CHANGE TO RATE PROVISIONS**

City Clerk Knutson stated that the City received a letter from an individual who is requesting relief on his water bill. His wife is on in-home kidney dialysis which uses a great deal of water. Staff drafted code provisions for such conditions for the Committee to consider.

Councilmember Reilly stated that while he was sympathetic to the situation, he could not in good conscience support a reduction or allowance in rates. Councilmember Oliver also understood that such conditions could be a hardship, but that such an allowance could present a number of problems for city ratepayers in the future.

After a lengthy discussion that centered on gifting of public services/funds, it was determined that it was not in the best interests of the City as a whole to make such an allowance. The Committee emphasized that this was a difficult, but necessary and fair, decision.

**OTHER**

- Mayor Landcastle stated that the Public Works Department is in the process of testing flow capacities in the area of the recent Klootwyk annexation.
- Councilmember Reilly asked that Public Works evaluate the need for a sign indicating “right turn only” in front of the Oxford-Carnation Building.

**ATTACHMENT C:**

**MINUTES  
Planning and Judicial Committee  
Held Wednesday, October 6, 2004  
City Hall Conference Room  
11:00 a.m.**

**COMMITTEE:** Councilmembers Cole and Elgart  
**ADMINISTRATION:** Jerry Landcastle, Tom Black, Dale Baker, Sylvia Stiles

**ANIMAL CONTROL ORDINANCE**

Councilmember Elgart felt that it would be prudent to include cats in the animal ordinance. She suggested a one time only fee, an annual fee and/or use of a chip to identify cats. Councilmember Elgart also suggested changing the wording on page 4 to read “dog at large” instead of “animal at large”.

Police Chief Baker recommended the committee to look at how changing the wording would impact the entire ordinance.

Councilmember Cole asked if it was necessary to pass the Animal Control Ordinance prior to acquisition of bids for animal control services. Mayor Landcastle confirmed the necessity or doing so.

**PROPOSED ADDITION TO CHAPTER 4 OF PERSONNEL POLICIES**

Mayor Landcastle informed the committee in section 4.2 the word Manager needed to be changed to Administrator. Chief Baker questioned the addition of sick leave buy out as part of compensation upon termination. Stiles stated that sick leave can only be bought-out when an employee retires.

*It was moved by Councilmember Cole and seconded by Councilmember Elgart to bring the proposed addition to the personnel policies to the full council with a recommendation for approval.*

**MOTORIZED SCOOTERS**

The committee agreed to discuss motorized scooters at the next committee meeting.

**OTHER**

Councilmember Cole reported the first meeting of the Pioneer Park Protocol Advisory Committee went very well. Five members of the committee were in attendance.

**ATTACHMENT D:**

**MINUTES  
Planning and Judicial Committee  
Held Wednesday October 13, 2004  
City Hall Conference Room  
11 a.m.**

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**COMMITTEE:** Councilmembers Susan Cole, Marianne Elgart, Carol Brumet  
**CITY ADMINISTRATION:** Linda Knutson, Tom Black

**RESOLUTION #04-10-18 – GRAD NIGHT 2005**

At the Council meeting of October 4, the Council requested that staff prepare a Resolution in support of the fund-raising efforts of the Ferndale High School Grad Night 2005 Committee. This was presented to the Committee for review and recommendation of approval.

*It was moved by Councilmember Cole and seconded by Councilmember Brumet to recommend approval of Resolution #04-10-18 to the full Council. Motion passed unanimously.*

**REVIEW OF MOTORIZED SCOOTER REGULATIONS**

Staff had asked that the City Attorney provide an opinion regarding the use of motorized scooters in the City. Currently, no regulations exist in City codes that address these scooters, other than a reference to go-carts. The City Attorney does not feel that the go-cart regulations are applicable to motorized scooters, and would be difficult to enforce. State regulations are fairly lenient as written, and include little or no regulations on age, licensing, or safety equipment. The Committee's main focus will be on the safety of motorized scooter operators. They asked that Police Chief Baker attend the next meeting for input and discussion.

**ANIMAL CONTROL ORDINANCE**

The Committee asked for further information regarding the review of the Animal Control Ordinance. At issue are fees, registration versus licensing, chipping requirements or recommendations, and how each

revision affects the rest of the ordinance. Staff will draft a suggested revised ordinance for review at the next meeting.

**APPEAL BY CEDAR'S RV – FRONTAGE IMPROVEMENT REQUIREMENTS**

Planning Director Tom Black briefly reviewed that Council will be hearing an appeal on road frontage improvement requirements by the owners of Cedar's RV on Portal Way.

**ATTACHMENT E:**

**MINUTES  
Recreation and Financial Committee  
Held Wednesday, October 6, 2004  
City Hall Conference Room  
8:45 a.m.**

**COMMITTEE:** Councilmembers Wilson, Elgart, Oliver  
**ADMINISTRATION:** Jerry Landcastle, Greg Young, Sylvia Stiles

**MEETING TIME**

Mayor Landcastle asked each Councilmember to consider the time and day of regular committee meetings. Staff will adjust to time that works best of committee members.

**FINANCIAL MANAGEMENT POLICIES**

Greg Young presented a Financial Management Policies document for the committee to begin developing as a City Policy. The committee will review each item in the document. Councilmember Wilson likes the overall idea of a document stating the Cities Financial Management Policies. Councilmember Elgart thought this was a great idea.

**General Budget Policies**

*Operating Deficits* - Councilmember Oliver asked about supplementing verses supplanting Mr. Young explained the difference to the committee.

*Budget Adoption Level* – Councilmember Oliver would like to see a schedule of Full Time Employees added to this section.

*Public Safety Services* – This is to be defined as Police and Fire

*Degradation of Current Service Levels* – Councilmember Oliver stated that he was not sure he agreed with this statement. Mr. Young felt that we could use service levels as a benchmark.

*New Programs...* – Committee felt this statement should be changed to read specific dedicated and or restricted revenue source.

*Commitments that can reasonably be maintained over the long term* – This can be added to the City 5 year program.

**Budget Adjustments**

The Committee discussed the amount of control The Council would have over the Departments. Councilmember Oliver suggested that a percentage of change could trigger an adjustment. Councilmember Wilson expressed concern that the Department Heads needed to control their portion of the budget. He did not want to have the council micro-manage the budget. Administrator Young suggested a possible quarterly review. Mr. Young will redraft this section.

**Budget Amendments**

Councilmember Wilson would like to see budget amendments done quarterly. Councilmember Oliver agreed.

Greg Young asked the committee if they would like to take the document to the council in its entirety or if they wished to present it in sections. The committee agreed to present it in sections. Mr. Young also stated the importance of reviewing policies every few years.

**ATTACHMENT F:**

**MINUTES  
Recreation and Finance Committee  
Held Wednesday October 13, 2004  
City Hall Conference Room  
8:45 a.m.**

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**COMMITTEE:** Councilmembers Elgart, and Oliver  
**CITY ADMINISTRATION:** Jerry Landcastle, and Linda Knutson

**ONGOING REVIEW OF FINANCIAL MANAGEMENT POLICIES**

The Committee had asked for some revisions and additions to the first component, "Budgeting Policies—Background, Purpose and Concept", of the City's proposed Financial Management Policies, which were reviewed at the previous Committee meeting. The revisions were discussed and refined, with some minor language modifications. This version, with the recommended changes, will be presented at the Council Budget Workshop on October 18<sup>th</sup>.

The second component, "Revenue, Expenditure and Reserve Policies", was discussed at length, with several modifications suggested. This component will return to the Committee next week for further discussion.

The third component, "Capital Improvement Plan Policies", was distributed to Committee members for review and discussion at the next meeting.